

Sunset Public Hearing Questions
**Board for Professional Counselors, Marital and Family Therapists,
and Clinical Pastoral Therapists**

Created by Section 63-22-101, Tennessee Code Annotated
(Sunset Termination June 2019)

1. Provide a brief description of the board, including information about its purpose, statutory duties, and administrative attachment.

The Board for Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists was created in 1984 by the State Legislature. Effective January 1, 1998 a clinical pastoral therapy component was added to this Board. The Board is responsible for safeguarding the health, safety, and welfare of Tennesseans, by requiring that all who practice professional counseling, marital and family therapy, and clinical pastoral therapy within this state be qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is authorized to issue a license or certificate to qualified applicants who have completed appropriate education and successfully completed required examinations. The Board is also responsible for the investigation of alleged violations of the Practice Act and rules, and is responsible for the discipline of licensees who are found guilty of such violation.

Professional counselors, marital and family therapists, and clinical pastoral therapists may be licensed by either examination or endorsement from other states.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules. Renewal notices are mailed from the Board's administrative office forty-five (45) days prior to the expiration of the license to the current address on record. Licensees are responsible for reviewing their license on time and keeping the Board apprised of current information. If a licensee has "opted in" to receive renewal notification via email, an email will be sent out to the licensee reminding them to renew their license approximately forty-five (45) days prior to the expiration date. Licenses can be renewed on-line seventy (70) days prior to expiration.

The Board consists of five (5) members appointed by the Governor to serve five (5) year terms. The Tennessee Association for Counseling and Development, the Tennessee Association for Marriage and Family Therapy, and the Tennessee Association of Pastoral Therapists each may provide the Governor with a list of four (4) candidates from which to fill vacant positions. One (1) position is a consumer member. A quorum of three (3) members is required to conduct business. The meetings are open to the public and are streamed live so those who are unable to attend physically may watch through the internet.

2. Provide a list of current board members. For each member indicate how the member's presence complies with Section 63-22-101, *Tennessee Code Annotated*. Please indicate each member's race and which members, if any, are 60 years of age or older, as specified in 63-22-101 (c)(5), *Tennessee Code Annotated*. Does the board's membership reflect geographical diversity as mentioned in Section 63-22-101(h), which states the appointing authority should strive to ensure that members on the board are from each of the grand divisions of the state.
- a. Each of these members was appointed by the Governor.

MEMBER	Representation	Gender/Ethnicity
Susan Hammonds White, Ed.D Davidson County	LPC- MHSP	Female/Caucasian/Over 60
Kimberley Speakman Davidson County	LPC-MHSP	Female/Caucasian
Shelly Steel Sullivan County	LMFT	Female/Caucasian
Howard Nelson, PhD Shelby County	LCPT & LPC-MHSP	Male/African American/Over 60
Jennifer Little Grainger County	Consumer Member	Female/Caucasian

3. Are there any vacancies on the board? If so, what steps have been taken to fill those vacancies?
- a. There are no vacancies on the board at this time.
4. How many times did the board meet in the last two years? How many members were present at each meeting?
- a. The Board met 8 times in the past 2 years.

Meeting Date	Number Present	Meeting Date	Number Present
6/3/2016	3	6/2/2017	3
9/3/2016	5	9/1/2017	5
12/2/2016	5	12/1/2017	5
3/3/2017	5	3/9/2018	4

5. What per diem or travel reimbursement do members receive? How much was paid to board members during the last two years?
- a. Members receive \$0.47 per mile for travel to a meeting between residence and Board office. If it is necessary for them to spend the night then they receive \$44.25 for meals and incidentals for the day they arrive and the day they leave, as

well as reimbursing for hotel up to \$170.00 per night plus taxes in-state for Board meetings.

- b. For out of State travel they receive the current CONUS rate per day for meals and incidentals, and the current CONUS rate per day for lodging, plus taxes and surcharges as well as reimbursements for taxis and shuttles. In the last 2 years Board members have received 6,790.73 for Board meetings and \$11,215.37 for conference travel.
6. What were the board's revenues and expenditures for the last two years? Does the board carry a balance and, if so, what is the total of that balance? If expenditures have exceeded revenues, and the board does not carry a balance, what was the source of the revenue for excess expenditures?

Fiscal Year	FY2017	FY2016
Revenue	\$236,135.00	\$253,404.00
Expenditures	\$169,401.82	\$247,678.89
Carryover	\$763,493.46	\$715,748.10

7. Has the board promulgated rules? If so, please cite the reference.
- a. The board has rules promulgated at 0450.
 - i. Rule 0450-01 governs Licensed Professional Counselors.
 - ii. Rule 0450-02 governs Licensed Marital and Family Therapists.
 - iii. Rule 0450-03 governs Clinical Pastoral Therapists.
8. Is the board subject Sunshine Law requirements (Section 8-44-101, *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public? If available, please provide a link to board meeting minutes.
- a. The board is subject to the Sunshine law requirements of T.C.A. 8-44-101 et seq. A public meeting notice is posted to the board's web site by the 15th day of the month proceeding the month of the meeting date as well as posting the information on the Public Participation Calendar.
 - b. The board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the board at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the board's web site.
 - c. Additionally, each board meeting is streamed live so the public can view the meeting as it is actually being held. A video recording of the meeting is available on the department's web site for one month following the meeting. An audio recording of the meeting is also available.

9. Does the board have any policies in place to address potential conflicts of interest by board members, board employees, or other state employees who work with the board in any capacity? Please provide a description of those policies.
 - a. All board members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to the policy. Board members are required to sign a conflict of interest statement upon appointment or as soon as practical and annually thereafter.
 - b. It is the responsibility of the board administrator to ensure that the Conflict of Interest Statement is properly and timely signed. Board staff is required to sign a new Conflict of Interest statement annually.
 - c. The board's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

10. What were the board's major accomplishments in the last two years?
 - a. The board is working on rules and regulations for tele-counseling as well rewrites of
 - b. The rules governing Marital and Family Therapists – Rule 0450-02 and Clinical Pastoral Therapists – Rule 0450-03.
 - c. There was a fee reduction in all categories of licensure in December 2015 reducing the biennial renewal from \$190.00 to \$115.00.

11. Please provide a list of all fees collected by the board and indicate whether these fees were established through rule or through legislative statute.
 - a. The fees authorized by statute are established by the Boards and modified by rules that are approved by joint government operations committee.

Fee Schedule:

Certified Professional Counselor

1. Replacement Certificate	\$ 25.00
2. Late Renewal	\$ 75.00
3. Renewal (Biennial)	\$ 115.00
4. State Regulatory (Biennial)	\$ 10.00
5. Upgrade Review	\$ 50.00

Certified Associate Counselor

1. Upgrade Review	\$50.00
--------------------------	----------------

**Licensed Professional Counselor
(With or without Mental Health Service Provider)**

1. Application	\$ 200.00
2. Replacement License	\$ 25.00
3. Late Renewal	\$ 75.00
4. Renewal (Biennial)	\$ 115.00
5. State Regulatory (Biennial)	\$ 10.00
6. Temporary License	\$ 150.00
7. Mental Health Service Provider Upgrade Application	\$ 75.00

Certified Marital and Family Therapist

1. Replacement Certification	\$ 25.00
2. Late Renewal	\$ 75.00
3. Renewal (Biennial)	\$ 115.00
4. State Regulatory (Biennial)	\$ 10.00
5. Upgrade Review	\$ 50.00

Licensed Marital and Family Therapist

1. Application and Oral Examination	\$ 200.00
2. Replacement License	\$ 25.00
3. Late Renewal	\$ 75.00
4. Renewal (Biennial)	\$ 115.00
5. State Regulatory (Biennial)	\$ 10.00
6. Temporary License	\$ 150.00

Clinical Pastoral Therapists

(a) Application	\$ 200.00
(b) Duplicate License	\$ 25.00
(c) Late Renewal	\$ 75.00
(d) Renewal (Biennial)	\$ 115.00
(e) State Regulatory (Biennial)	\$ 10.00
(f) Examination	\$ 250.00

12. Please distinguish between professional counselors, marital and family therapists, and clinical pastoral therapists.

- a. **Practice of Professional Counseling** (without the designation as a mental health service provider) – Rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, techniques, methods, or procedures of the counseling profession, including appraisal activities, as defined by the law, counseling, consulting and referral activities. Nothing in this section shall be construed to permit the treatment of any mental, emotional or adjustment disorder other than marital problems, parent-child problems, child, and adolescent antisocial behavior, adult antisocial behavior, other specified family circumstances, other interpersonal problems, phase of life problems, other life circumstance problems, occupational

problems, and uncomplicated bereavement. Practice of counseling as a mental health services provider - the application of mental health and human development principles in order to:

- i. Facilitate human development and adjustment throughout the life span;
 - ii. Prevent, diagnose, and treat mental, emotional or behavioral disorders and associated disorders which interfere with mental health;
 - iii. Conduct assessments and diagnoses for the purpose of establishing treatment goals and objectives within the limitations prescribed in T.C.A. § 63-22-150(1); and
 - iv. Plan, implement, and evaluate treatment plans using counseling treatment interventions. Counseling treatment interventions shall mean the application of cognitive, affective, behavioral and systemic counseling strategies which include principles of development, wellness, and pathology that reflect a pluralistic society. Nothing in this definition shall be construed to permit the performance of any act which licensed professional counselors designated as mental health service providers are not educated and trained to perform, nor shall it be construed to permit the designation of testing reports as “psychological”.
- b. **Marital and family therapy** means the diagnosis and treatment of cognitive, affective, and behavioral problems and dysfunctions within the context of marital and family systems. Marital and family therapy involves the professional application of psychotherapeutic family systems theories and techniques in the delivery of services to individuals, couples, and families (in the context of family systems theory and practice).
- c. **The practice of clinical pastoral therapy** means the rendering of professional clinical pastoral therapy to individuals, couples, families or groups, either offered to the general public by an individual operating independently of any institution, organization or agency, though mental health clinics or agencies, whether public or private or through hospitals, whether public or private, for a fee, excluding volunteer hours.

13. How many of each of the three types of counselors and therapists are there in the state? Are they all under the authority of the board? If not, what types of practitioners are not included? Should they be included under the board’s authority?

- a. As of March 8, 2018 there were 2244 active Licensed Professional Counselors, 629 Marital and Family Therapists, and 24 Clinical Pastoral Therapists. They are all under the authority of the Board.

Profession	Number of Licensees
Cert. Professional Counselors	17
Cert. Martial and Family Therapists	1

Licensed Clinical Pastoral Therapists	24
Licensed Professional Counselors	2244
Licensed Marital and Family Therapists	629

14. How many new licenses and how many renewals has the board issued during the last two years? How does the board ensure that licensees meet all licensure requirements?
- There have been a total of 708 new licensees in the past two (2) years and 2231 licensees have renewed their licenses.
 - In order to ensure that license holders meet all requirements for licensure, a thorough file review is conducted.
15. How many licenses and certifications were issued under reciprocity in the last two years? How did the board ensure that the other state's or country's standards met Tennessee licensing requirements?
- The board issued eight (8) licenses under reciprocity during the last two years. The board only has true reciprocity with Kentucky under a reciprocal agreement signed in April of 2015.
16. How many license or certification applications did the board deny in the last two years? What were the reasons for denial?
- The board no longer certifies professional counselors or marital and family therapists. These professions are now licensed. During the last two years, no licenses were denied; those applicants that did not meet the criteria for licensure were given the opportunity to withdraw their application.
17. How many licenses did the board revoke or suspend during the last two years? What were the reasons for the revocations or suspensions? Has anyone been cited for practicing without a license? If yes, please provide relevant information.
- 3 licensees have been suspended in 2016 and 2017
 - 2 for Professional Misconduct, unethical or unprofessional conduct
 - 1 licensee surrendered his license due to sexual misconduct. A voluntary surrender carries the same weight as a revocation.
 - 13 have been cited for practicing without a license.

18. How many complaints did the board receive and investigate during the last two years? What types of complaints were received? What was the source of the complaints? How many resulted in some form of remedial action being taken by the board?
- The source of the complaints are from the public as well as other practitioners in the field as well as anonymous complaints. Complaint information including the source of the complaint is confidential until a Notice of Charges is filed for a disciplinary hearing before the board.
 - All complaints showing a violation of the practice act result in some type of remedial action whether they are closed by investigations and sent to the Office of General Counsel (OGC) because there was sufficient evidence for formal discipline, closed by investigations with a letter of concern (not public discipline), closed by investigations with a letter of warning (not public discipline) or closed by investigations and office of general counsel without enough evidence to take any action at all.

2017 Complaints

Drugs	1
Sexual Misconduct	2
Advertising	1
Criminal Charges	1
Unlicensed Practice	5
Unprofessional Conduct	23
Medical Record Request	2
Lapsed License	2
Failure to Supervise	1
Drug Diversion	1
Practice beyond the scope	1

2016 Complaints

Care of Services	1
Unlicensed Practice	9
Unprofessional Conduct	15
Violation of Order	2

2017

Complaints resulting in formal discipline – 2
Complaints resulting in nonpublic discipline – 19

2016

Complaints resulting in formal discipline – 3
Complaints resulting in nonpublic discipline – 16
Pending Court Action - 1

19. Describe the process by which the board receives, handles, and tracks complaints. Are there written procedures? How are complaints assessed and prioritized? Is a complaint log maintained? At what point is a complaint closed?
- Complaints are triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are processed according to an established review procedure utilizing practicing members of the profession as consultants and a staff attorney assigned by the Department of Health. Complaints are designated by priority code, which can change during the course of an investigation. Complaints are tracked utilizing a computerized database system.
 - Written procedures are in place to serve as a guideline for the effective investigation and preparation of the necessary evidence for purposes of prosecution.
 - A complaint can be closed at initial review and/or after an investigation.
 - Benchmarks have been established for the review and the investigative stages. A 30 day benchmark is established for the review process with a 90 day benchmark established for the investigation process. Across all boards, review benchmarks are met approximately 80% of the time, while investigation benchmarks are met approximately 60%. A "Continuous Quality Improvement" system is in place to analyze case movement and tracking. Benchmarks are being re-analyzed in light of statutory hurdles, increased volume of complaints received, and the increased volume of investigations to be conducted.
20. What steps has the board taken to educate the public, consumers, and license holders about how to file a complaint? When considering enforcement actions taken by the board in the last two years, how did the board become aware of the situations resulting in enforcement actions?
- The Department of Health maintains a website at <https://www.tn.gov/health/health-professionals/hcf-main/filing-a-complaint.html> which provides consumers with an in depth description of the complaint process including how to file a complaint and what they may expect from the Department of Health.
21. How many contested cases did the board hear during the last two years? How many of these cases were heard by an administrative law judge and reviewed by the board? Of the cases heard, how many resulted in penalties being dismissed? Reduced? Upheld?
- There were no contested cases heard during the last two years. All disciplinary matters were settled by means of an Agreed Order or Consent Order.

22. Does the board have the authority to impose civil penalties? If so, what penalties have been assessed in the last two years and what is the amount of those penalties?
- Pursuant to Tenn. Code Ann. § 63-1-134, the Board for Licensed Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists has the authority to impose civil penalties against a violator in an amount not to exceed one thousand dollars (\$1000.00) for each separate violation of a statute, rules or order pertaining to such board, commission or agency. Each day of continued violation constitutes a separate violation.
 - During the last two (2) years the board assessed civil penalties in the amount of four hundred (\$400.00) dollars. Please see the accompanying excel file.
23. What reports does the board prepare on its operations, activities, and accomplishments? Who receives copies of these reports?
- The board reports its disciplinary action to the Department of Health for inclusion on the Monthly Disciplinary Action Report. The board also reports its disciplinary action to the Office of Investigations for the purpose of reporting to the National Practitioner Databank when required by law.
24. Describe any items related to the board that require legislative attention and any proposed legislative changes.
- There are no items requiring legislative attention.
25. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of Tennessee citizens?
- Yes, the Board should be continued. Without the presence of the Board for Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists, members of the public whose mental health care is provided by Licensed Professional Counselors, Licensed Marital and Family Therapists or Licensed Pastoral Therapists would be uncertain that their healthcare provider is fully qualified to practice his/her profession and does so in a safe and ethical manner.
26. Please provide a list of current board staff.
- Theodora Wilkins – Regulatory Board Administrative Director 2
 - Vanessa Hayes – Administrator
 - Betty Fuller – Licensing Technician

27. Please provide a list of all board contracts, detailing each contractor, the services provided, and the amount of the contract.
- a. Professional Examination Services provides applications examination services for licensure as a marital and family therapist. No cost contract, not minority/disadvantaged.
 - b. National Board for Certified Counselors, Inc. (NBCC). Administration of the National Counsel Examination, National Clinical Mental Health Counseling Examination and Tennessee Jurisprudence Examination for Professional Counselors. No cost contract, not minority/disadvantaged.